

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
FAYETTEVILLE DIVISION

JILL DILLARD, JESSA SEEWALD  
JINGER VUOLO, and JOY DUGGAR

PLAINTIFFS

vs.

CASE NO. 5:17-5089-TLB

CITY OF SPRINGDALE, *et al.*

DEFENDANTS

**BRIEF IN SUPPORT OF MOTION TO QUASH SUBPOENA DUCES TECUM**

Comes now the Arkansas Department of Human Services (“DHS”), by and through the undersigned attorney, and for its Brief in Support of its Motion to Quash Subpoena Duces Tecum pursuant to Fed. R. Civ. P. 45, states:

The Subpoena Duces Tecum that Defendant has served on DHS is expressly subject to the confidentiality laws of the State of Arkansas. To the extent that any child maltreatment documentation exists and that such documentation is in the possession of DHS, the Arkansas Child Maltreatment Act applies. All reports of child maltreatment are confidential and may only be disclosed as provided in Ark. Code Ann. §§ 12-18-909 and 12-18-910. Unlawful disclosure of data or information subject to the Child Maltreatment Act is a Class A Misdemeanor. Ark. Code Ann. § 12-18-205(b).

Both true reports of maltreatment and screened-out, administratively closed, and unsubstantiated reports of child maltreatment are confidential and may only be disclosed to the individuals and entities specifically described in their respective statutes under the Child Maltreatment Act. The list of exceptions to the confidentiality requirement of true reports of child

maltreatment is listed in Ark. Code Ann. § 12-18-909(g). The list of exceptions to the confidentiality of screened-out, administratively closed, and unsubstantiated reports of child maltreatment is listed in Ark. Code Ann. § 12-18-910(f). Nothing in the Child Maltreatment Act prevents the subject of the child maltreatment report from disclosing the matter. Ark. Code Ann. §§ 12-12-909(d)(4) and 12-12-910(d)(3).

There is no exception to the Arkansas Child Maltreatment Act confidentiality requirement for Defendant, and Defendant has not asserted to DHS that it falls under any of the delineated exceptions to the confidentiality requirement. DHS has a duty to maintain the confidentiality of any child maltreatment report, should any such report exist, as required by state law. On timely motion, the Court for the district where compliance is required must quash or modify a Subpoena that requires disclosure of privileged or other protected matter, if no exception or waiver applies. Fed. R. Civ. P. 45(d)(3)(A)(iii). DHS is asking that the Subpoena served on it by Defendant be quashed. Defendant is not seeking to protect children from abuse or neglect with the release of this documentation, should it exist, but instead seeks to defend itself against a lawsuit whereby the Plaintiffs allege that Defendants released confidential information that they should not have released.

DHS reached out to Defendant after receiving the Subpoena Duces Tecum to explain why compliance with the Subpoena Duces Tecum could cause DHS to violate the Arkansas Child Maltreatment Act should any documents subject to the Act exist.

If this Court orders DHS to comply with the Subpoena, DHS requests that the name of any person who made a child maltreatment report, should any such report exist, be redacted pursuant to Ark. Code Ann. §§ 12-18-909(c)(1) and 12-18-910(c)(1).

Respectfully submitted,

Arkansas Department of Human Services  
Office of Chief Counsel

By: /s/ Skye Martin

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**CERTIFICATE OF SERVICE**

I, Skye Martin, Attorney for the Arkansas Department of Human Services, do hereby certify that on this 16<sup>th</sup> day of August, 2021, I electronically filed the above Brief in Support of Motion to Quash using the CM/ECF System which shall send notification of such filing to all counsel of record.

/s/ Skye Martin

Skye Martin, Ark. Bar No. 2012161